

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No. 5709 of 2006

Date of Decision: 31.10.2006

Charanjit Kaur

...Petitioner

Vs.

Gurnam Singh & Ors.

...Respondents

CORAM Hon'ble Mr.Justice Vinod K.Sharma

Present: Mr.B.B.Bagga, Advocate,
for the petitioner.

Vinod K.Sharma, J. (Oral)

Present revision petition has been filed against the orders passed by the Courts below dismissing the application moved by the petitioner under Order 39 Rules 1 and 2 of the Code of Civil Procedure.

The petitioner-plaintiff had filed a suit claiming herself to be the owner in possession in pursuance to the sale deed. The said suit was contested by the defendant on the ground that he was owner in possession of the property in pursuance to the sale deed executed in his favour.

It is not in dispute that the property was shown to be in joint possession of the co-sharers but each co-sharer was in possession of their respective shares. It has also come on record that the co-sharers have sold their shares by handing over possession to their respective vendees and they have been

put in possession thereof.

Learned counsel for the petitioner contends that it is on account of wrong description given in the sale deed that the respondent was enjoying the possession of the property to which she is not entitled to. The contention of the learned counsel for the petitioner was that he being purchasers of the property was entitled to seek injunction restraining the defendant-respondent from raising any construction over the plot or interfering in her possession.

This contention of the petitioner cannot be accepted as it is a question to be decided on merits after the parties have led their respective evidence to find out whether there is any wrong description in the sale deed by the defendant-respondent. Be that as it may, once the defendant was found to be in possession of the property it was rightly held that the plaintiff was not entitled to injunction prayed for as the plaintiff is still to establish her claim. Thus there is no merit in the present revision. It is accordingly dismissed.

31.10.2006
rp

(Vinod K.Sharma)
Judge